Court No.2

Civil Writ Petition No.596 (M/B) of 2002.

Janab Hussain ……..… Petitioner.

Versus

State of Uttaranchal & three others. …… Respondents.

…….……..

Hon'ble P. C.Verma,J.
Hon'ble Irshad Hussain,J.

This writ petition has been filed by the petitioner challenging the order dated 04.07.2002 passed by the Administrator, Zila Panchayat/District Magistrate, Udham Singh Nagar cancelling his contract for collection of licence charges against the control and regularization of Cycle-Rickshaw, Thela, Tanga, Buggi, Danlop within the area of Zila Panchayat, Udham Singh Nagar. The auction was held in which the petitioner's bid was highest and the contract was settled in favour of the petitioner. The petitioner deposited Rs. 66,000/- (Rs. Sixty six thousand) as licence fee on 23.03.2002. Thereafter according to the condition No.6 of the contract, the petitioner has to deposit remaining licence fee Rs. 66,000/- (Rs. Sixty six thousand) by 30.06.2002 which he did not deposit. Therefore, he violated the condition No.6 of the contract.

Furthermore, according to the impugned order, the petitioner violated the condition No. 7 of the contract as he charged fee from the Rickshaw pullers and Tanga holders at the rate of Rs. 70/- (Rs. Seventy) while he was authorized to charge fee at the rate of Rs. 60- (Rs. sixty). On account of violation of these two conditions, the licence of the petitioner has been cancelled. It is specifically provided in the contract itself that in case of violation of the conditions of the contract, the contract shall be cancelled.

It is exercise of this power, the contract of the petitioner has been cancelled. In the case of contract by the Government as a public utility undertaking, the court cannot interfere under Article 226 of the

Constitution with the terms of the contract unless they are discriminatory, unreasonable or capricious as has been held by the apex Court in the case of Bareilly Development Authority and another versus Ajay Pal Singh and others, reported in A.I.R. 1989 Supreme Court, page 1076.

The ratio of the above judgment of Bareilly Development Authority's case is directly attracted in this case as the right arisen is purely out of contract.

Thus, we do not incline to entertain this petition. The petition is dismissed in limine.

(Irshad Hussain, J.) **(P.C.Verma, J.)**

04.10.2002
P.Singh